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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

SI

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16 HUGO SLUIMER,) CV 08 1220
17 Plaintiff,) CASE NO.
18 v.) COMPLAINT FOR BENEFITS AND
19 VERITY, INC., a corporation, and THE) RELIEF UNDER ERISA
20 VERITY INC. CHANGE IN CONTROL)
21 AND SEVERANCE BENEFIT PLAN,)
22 Defendants.)

24 JURISDICTION

25 1. This action for declaratory, injunctive, and monetary relief is brought pursuant to §
26 502 of ERISA (29 U.S.C. § 1132), and the Declaratory Judgment Act, 28 U.S.C. § 2201. This Court
27 has subject matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331 because this
28 action arises under the laws of the United States.

VENUE

2 2. Venue lies in the Northern District of California because, pursuant to ERISA § 502
3 (e) (2) (29 U.S.C. § 1132 (e) (2)), Defendant THE VERITY INC. CHANGE IN CONTROL AND
4 SEVERANCE BENEFIT PLAN (the “PLAN”) is administered in this District and the wrongful
5 conduct alleged herein took place in this District. Venue is also proper pursuant to 28 U.S.C. § 1331
6 (b), in that a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred
7 within this District.

PARTIES

9 3. At all relevant times, Plaintiff HUGO SLUIMER was, and is, a PLAN
10 PARTICIPANT, as defined in ERISA § 3 (7) (29 U.S.C. § 1002 (7)).

11 4. At all relevant times, Defendant VERITY, INC. (“VERITY”) was a corporation
12 organized under one of the United States, with its current corporate headquarters in San Francisco,
13 California. VERITY develops and sells business software worldwide. At all relevant times,
14 Defendant PLAN was an employee welfare benefit plan within the meaning of ERISA § 3 (1) (29)
15 U.S.C. § 1002 (1)), sponsored and administered by VERITY . At all relevant times, the PLAN was
16 administered, at least in part, in the Northern District of California. At all relevant times, the PLAN
17 offered severance and other benefits to certain employees of VERITY, including Plaintiff.

18 5. At all relevant times, VERITY was a fiduciary of the PLAN within the meaning of
19 ERISA § 3 (21), 29 U.S.C. § 1002 (21). At all relevant times, VERITY exercised control over the
20 payment of severance and other benefits which are PLAN assets. This lawsuit arises out of
21 VERITY's failure to grant certain benefits to Plaintiff to which Plaintiff was entitled under the terms
22 of the PLAN.

FACTS COMMON TO ALL CLAIMS

24 6. Plaintiff became employed by VERITY in 1990. Plaintiff worked for VERITY for
25 more than fifteen years and received multiple promotions during that time. As of 2005, Plaintiff was
26 VERITY's Senior Vice President for EMEA (Europe, Middle East and Africa) and APAC (Asia
27 Pacific) Operations. In this role, Plaintiff had responsibility for all of VERITY's worldwide
28 operations outside of the Americas, and was one of VERITY's most senior executives. In his

1 capacity as Senior Vice President for EMEA and APAC Operations, Plaintiff had responsibility for
 2 over 100 reports, including 10 country managers; Plaintiff was responsible for overseeing operations
 3 generating approximately \$50,000,000 in revenue (roughly half of VERITY's total worldwide
 4 revenue); and Plaintiff reported directly to VERITY's President/CEO. In his capacity as Senior Vice
 5 President for EMEA and APAC Operations, Plaintiff had responsibility for all aspects of VERITY
 6 operations outside of the Americas, including responsibility for sales, marketing, finance,
 7 administration, technical operations, and oversight of consultants.

8 7. As of April 2005, VERITY was evaluating the possibility of being acquired by and/or
 9 merged with another company. On April 6, 2005, as an incentive to keep certain VERITY
 10 employees employed during this transition process, and to provide certain benefits to employees in
 11 the event of a 'change of control' and subsequent termination, VERITY created the PLAN. Among
 12 other things, the PLAN provided that, if a PLAN participant suffered a "covered termination" within
 13 18 months following a "change of control", the PLAN participant was entitled to receive certain
 14 benefits, including: a cash severance payment, accelerated stock option vesting, an extended time
 15 period in which to exercise stock options, continued medical benefits, and other benefits. Under the
 16 PLAN, a "covered termination" was defined as either an "involuntary termination without cause" or
 17 a "constructive termination". Under the PLAN, a "constructive termination" occurred when there
 18 was a "substantial reduction in the [employee's] duties or responsibilities...in effect immediately
 19 prior to the...Change of Control . . ."

20 8. On May 4, 2005 VERITY provided Plaintiff with a Participation Notice for the
 21 PLAN, which confirmed that Plaintiff was a PLAN participant. The Participation Notice confirmed
 22 that, as a PLAN participant, Plaintiff was eligible for benefits under the PLAN in the event that he
 23 suffered a "covered termination" following a "change of control". These benefits included
 24 Accelerated Vesting of Stock Options, Extended Exercisability of Stock Options and Continued
 25 Medical Benefits. Because Plaintiff was a Dutch citizen, Plaintiff elected to not participate in the
 26 cash severance benefit provided to other PLAN participants. Instead, Plaintiff chose to have his cash
 27 severance payment governed by Dutch law. Plaintiff's Participation Notice specifically noted that
 28 Plaintiff had declined to participate in the cash severance payment benefits portion of the PLAN, but

1 confirmed that Plaintiff was otherwise a PLAN participant and thus eligible for the other PLAN
 2 benefits in the event of a “covered termination”, including accelerated vesting of stock options.

3 9. The PLAN provided that the PLAN ADMINISTRATOR was the VERITY Vice President
 4 of Human Resources, who was located at VERITY’s corporate headquarters within the Northern
 5 District of California, and that Plaintiff should direct applications for benefits or inquiries about the
 6 PLAN to the PLAN Administrator.

7 10. In or about December 2005, VERITY entered into an agreement to be acquired by,
 8 and was acquired by, AUTONOMY COMPANY PLC (“Autonomy”). Autonomy was a software
 9 developer headquartered in England. In acquiring VERITY, Autonomy assumed liability for many
 10 of VERITY’s obligations. Autonomy’s acquisition of VERITY constituted a “change of
 11 control” under the terms of the PLAN. Therefore, under the terms of the PLAN, if Plaintiff suffered
 12 a “covered termination” within the next 18 months, Plaintiff was entitled to receive benefits under
 13 the PLAN, including accelerated vesting of Plaintiff’s stock options.

14 11. On December 29, 2005, Autonomy sent a letter to Plaintiff, entitled “Warning of
 15 Possible Redundancy - Acquisition of Verity, Inc. by Autonomy Corporation PLC”. In this letter,
 16 Plaintiff was warned that his position had been identified as “at risk of redundancy”, and that “if...a
 17 suitable alternative position is not identified, [Autonomy] may proceed to terminate your
 18 employment by reason of redundancy.” Plaintiff received this letter on January 6, 2006.

19 12. On January 5, 2006, Plaintiff was contacted by Autonomy’s Chief Operating Officer,
 20 Andrew Kanter (“Kanter”). Kanter was fully aware of Plaintiff’s job title and duties and
 21 responsibilities at VERITY. Kanter informed Plaintiff that there was no similar position at
 22 Autonomy which would be available to Plaintiff. A few hours after the call, Plaintiff’s company e-
 23 mail was shut off without notice to Plaintiff, and all of Plaintiff’s e-mails were re-directed to
 24 Autonomy’s Chief Financial Officer. During January 2006, Autonomy informed Plaintiff’s co-
 25 workers and clients that Plaintiff would no longer be working with the company. Consistent with
 26 instructions given to him, Plaintiff ceased performing work.

27 13. On approximately January 24, 2006, Kanter met with Plaintiff and read to Plaintiff a
 28 draft “exit letter” which stated that Autonomy could not offer Plaintiff an equal position at

1 Autonomy compared to the position he had at VERITY. Kanter then suggested to Plaintiff that
 2 Plaintiff propose an “exit fee”, i.e., an appropriate employment separation package. Between
 3 January and March 2006, Plaintiff informed Kanter that he was entitled to certain severance and
 4 other benefits as a result of the “change of control” and lack of a comparable job for him at
 5 Autonomy, and that he expected Autonomy/VERITY to honor its legal obligations to him.

6 14. On approximately March 23, 2006, Kanter sent Plaintiff a letter in which he
 7 acknowledged that Plaintiff’s job as Senior Vice President of EMEA and APAC Operations had
 8 lapsed. In a bad faith effort to avoid payment to Plaintiff of severance and other PLAN benefits,
 9 Kanter informed Plaintiff that Autonomy had found Plaintiff an “alternative opportunity” in a
 10 division of Autonomy. In fact, the “alternative” job offered to Plaintiff by Kanter appeared on its
 11 face to involve a substantial reduction in Plaintiff’s duties and responsibilities from his prior job as
 12 Senior Vice President for EMEA and APAC Operations. In addition, the “alternative” job offered to
 13 Plaintiff did not have a clearly defined role, responsibilities, business plan or reporting structure.

14 15. On April 3, 2006, Plaintiff informed Kanter in writing that the “alternative” position
 15 offered by Kanter appeared to be completely different from his job as Senior Vice President of
 16 EMEA and APAC, and that nobody had yet been able to provide a clear job description or plan for
 17 him. On April 7, 2006, Plaintiff informed Kanter in writing that he believed his employment had
 18 been terminated in accordance with the change of control provisions of the PLAN, and that he
 19 should therefore be entitled to accelerated vesting of his stock options and continued medical
 20 benefits. Plaintiff also informed Kanter that because his employment had been terminated following
 21 the change of control, he was also entitled to receive a cash severance payment under Dutch law.

22 16. During March and April 2006, Plaintiff and Kanter had a series of oral conversations, as
 23 well as written communications, in which Plaintiff explained that the “alternative” job was not
 24 comparable to his prior VERITY job as Senior Vice President, and that Plaintiff was therefore
 25 entitled to a cash severance payment and to certain benefits under the PLAN. Kanter knew and
 26 believed that the job offered to Plaintiff by Autonomy involved a substantial reduction in duties and
 27 responsibilities; was not ‘comparable’ to Plaintiff’s VERITY job; that Plaintiff had been
 28 ‘constructively terminated’ within the definition of the PLAN; and that Plaintiff was thus legally

1 entitled to benefits under the PLAN. However, in his capacity as COO of Autonomy, Kanter
 2 wanted to avoid paying Plaintiff any compensation and benefits resulting from this constructive
 3 termination, in an effort to save money for Autonomy and VERITY. Therefore, in a bad faith effort
 4 to avoid paying Plaintiff the severance and benefits due to him, Kanter told Plaintiff that his
 5 employment "had not been terminated" and that Plaintiff was therefore not entitled to any severance
 6 or benefits under the PLAN.

7 17. On April 11, 2006, Kanter asked Plaintiff to meet with David Humphries ("Humphries")
 8 to discuss Plaintiff's "alternative job". Kanter had informed Plaintiff that Humphries was to be
 9 Plaintiff's supervisor in the new job Kanter had offered to Plaintiff. On April 18, 2006, Plaintiff met
 10 with Humphries to discuss the "alternative job". Based on Plaintiff's conversation with Humphries
 11 and Humphries' description of Plaintiff's expected role and duties, it was clarified and re-confirmed
 12 that the "alternative" job offered by Autonomy would involve a substantial reduction in Plaintiff's
 13 job duties and responsibilities compared to Plaintiff's prior job as VERITY's Senior Vice President
 14 of EMEA and APAC Operations, and that the jobs were not at all comparable. For example, in
 15 Plaintiff's "new" job, he would have approximately 5 reports (rather than 100); he would be
 16 responsible for overseeing approximately \$3,000,000--\$5,000,000 in annual revenue (rather than
 17 overseeing \$50,000,000 in annual revenue); he would be responsible only for the sales function
 18 (rather than being responsible for sales, marketing, administration, finance, technical operations and
 19 consultants); he would be reporting to a "Director" level employee (rather than reporting directly to
 20 the President/CEO); and he would be responsible for selling in a specialized niche market within
 21 Autonomy (rather than focusing on the company's core business).

22 18. Plaintiff wrote to Kanter on April 25, 2006, and informed him that the "alternative" job
 23 offered by Autonomy was obviously "not comparable at all" to his former job with VERITY. Both
 24 Kanter and Plaintiff knew and believed that the "alternative" position offered to Plaintiff involved a
 25 substantial reduction in job duties and responsibilities, and that Plaintiff had therefore suffered a
 26 "constructive termination" under the terms of the PLAN. Nevertheless, in a bad faith effort to save
 27 Autonomy and VERITY money in his capacity as COO of Autonomy, Kanter again refused to
 28 acknowledge that Plaintiff had been constructively terminated.

1 19. In April 2006, Plaintiff filed a lawsuit in a Dutch court, in order to recover severance pay
2 under Dutch law as a result of Autonomy's failure to give him a comparable job following the
3 change of control ("the Dutch Lawsuit"). Plaintiff's attorneys served the legal papers for this lawsuit
4 on Autonomy on approximately April 27, 2006.

5 20. On May 1, 2006, because Autonomy had failed to give Plaintiff a comparable job
6 following the change of control and Plaintiff had experienced a constructive termination under the
7 PLAN, Plaintiff wrote to the PLAN Administrator (Jack Landers, the Vice President of Human
8 Resources for VERITY in California) as required by the PLAN, and informed the Administrator that
9 there had been a change of control under the terms of the PLAN and that Plaintiff was now entitled
10 to receive the benefits due him under the PLAN, including accelerated vesting of options.

11 21. In response to Plaintiff's May 1, 2006 letter to the PLAN Administrator, Kanter wrote to
12 Plaintiff on May 3, 2006, and asserted that Plaintiff was not entitled to benefits under the PLAN on
13 the grounds that Plaintiff had been offered "re-employment" by Autonomy. As of May 3, 2006,
14 Kanter was not the PLAN Administrator nor did Kanter have any authority under the PLAN to make
15 a determination to deny Plaintiff benefits under the PLAN, nor did Kanter claim to have any
16 authority to make such a decision.

17 22. In April and May 2006, as part of the Dutch Lawsuit proceedings, Plaintiff submitted
18 written materials to the Court (and to Autonomy/VERITY) which described Plaintiff's job duties and
19 responsibilities as VERITY Vice President of EMEA and APAC Operations; described his duties
20 and responsibilities in his "alternative" job at Autonomy; and explained why the two positions were
21 not comparable and constituted a substantial reduction in Plaintiff's job duties and responsibilities.
22 In addition, as part of the Dutch Lawsuit proceedings, the Dutch Court held a hearing on
23 approximately May 30, 2006. Both Plaintiff and Kanter attended this hearing, with Kanter appearing
24 as the company's representative and witness. During the May 30, 2006 hearing, the Court took
25 sworn testimony from Plaintiff and from Kanter regarding the nature of the two jobs and whether
26 they were comparable. During his testimony, Plaintiff explained to the Court his job duties in both
27 jobs and described why they were not comparable. Autonomy/VERITY was provided with all
28 written materials submitted to the Court by Plaintiff, including materials describing how the two jobs

1 were not comparable. Kanter was present as the company's representative during these Court
 2 hearings; heard Plaintiff's testimony; saw the evidence and materials submitted by Plaintiff as part of
 3 his case; and gave testimony himself as the company's representative.

4 23. On approximately June 7, 2006, the Dutch Court issued its written decision in the Dutch
 5 Lawsuit. The Court ruled in favor of Plaintiff, finding that the "alternative" position offered to
 6 Plaintiff at Autonomy was not comparable to his job with VERITY, and noting the change in
 7 Plaintiff's responsibilities and duties. The Dutch Court therefore ruled that Plaintiff's employment
 8 would be deemed terminated, and that Autonomy was obligated to pay Plaintiff a cash severance
 9 payment. Autonomy received a copy of the Dutch Court's decision, and did thereafter pay Plaintiff
 10 the cash severance amount ordered by the Dutch Court.

11 24. On July 6, 2006, Kanter wrote to Plaintiff and again stated that Plaintiff's May 1, 2006
 12 "application for benefits" under the PLAN (which Plaintiff had sent to the PLAN Administrator) was
 13 denied. Kanter asserted that Plaintiff had not suffered a 'constructive termination' within the
 14 meaning of the PLAN. As of July 6, 2006, Kanter was not the PLAN Administrator nor did he have
 15 any authority under the PLAN to make a determination to deny Plaintiff benefits under the PLAN,
 16 nor did Kanter even claim that he had any authority to make such a decision.

17 25. On July 13, 2006, Plaintiff again wrote to the PLAN Administrator (the Vice President
 18 of Human Resources of VERITY in California) and confirmed again that he was requesting his
 19 benefits under the PLAN since he had experienced a 'constructive termination' under the terms of
 20 the PLAN. Plaintiff specifically referred the PLAN Administrator to the Dutch Lawsuit and noted
 21 that the Dutch Court had ruled that the position offered to him by Autonomy following the change in
 22 control was not a 'comparable' job. Plaintiff reiterated to the PLAN Administrator that he had
 23 suffered a "constructive termination" under the PLAN because of the substantial reduction in his
 24 duties and responsibilities.

25 26. In violation of PLAN requirements, Defendants failed to act on Plaintiff's July 13, 2006
 26 request for review, and failed to notify Plaintiff promptly of their decision, within 60 days of receipt
 27 of Plaintiff's July 13, 2006 request.

28 ///

1 27. In response to Plaintiff's July 13, 2006 letter to the PLAN Administrator, Kanter
 2 eventually wrote a letter dated September 29, 2006, which Plaintiff received on October 26, 2006. In
 3 this letter, Kanter informed Plaintiff that his claim for benefits under the PLAN (and his request for
 4 review of the original denial) was denied. In the September 29, 2006 letter, Kanter admitted that he
 5 was aware of the Dutch Court decision. Nevertheless, Kanter again asserted in bad faith that
 6 Plaintiff had not suffered a "constructive termination" under the PLAN. In this September 29, 2006
 7 letter, Kanter also asserted that he (Kanter) had just recently assumed the duties as the PLAN
 8 Administrator. Kanter also informed Plaintiff that, under section 11(b)(4) of the PLAN, Plaintiff was
 9 being notified that he had right to bring a civil action under Section 502(a) of ERISA.

10 28. Defendants have produced no evidence to show that as of September 2006 Kanter was
 11 authorized by the PLAN to act as the PLAN Administrator and so make any determinations as to
 12 Plaintiff's entitlement to PLAN benefits, even though Plaintiff requested such information.
 13 Furthermore, to the extent that Kanter ever was authorized to act as the PLAN Administrator, Kanter
 14 was biased and had a clear conflict of interest with respect to determining whether Plaintiff was
 15 entitled to PLAN benefits.

16 29. At all relevant times, Plaintiff complied with all terms and conditions of the PLAN
 17 and remained, and continues to remain, eligible for Accelerated Vesting of Options, Extended
 18 Exercisability of Options and Continued Medical Benefits under the PLAN. At all relevant times
 19 herein, Plaintiff has been, and remains entitled to benefits under the terms of the PLAN.

20 30. At various times after May 1, 2006, Plaintiff has requested that Defendants produce
 21 certain documents to which Plaintiff was entitled pursuant to ERISA and applicable Department of
 22 Labor Regulations, including documents relating to the PLAN, the PLAN's administration and the
 23 determination to deny Plaintiff benefits under the PLAN. Defendants have refused, and continue to
 24 refuse, to produce to Plaintiff the documents requested.

25 31. Plaintiff has exhausted his administrative remedies.

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FIRST CLAIM FOR RELIEF

(Claim for PLAN Benefits Pursuant to ERISA § 502(a) (1) (B))

3 32. Plaintiff realleges and incorporates as though set forth in full the allegations contained
4 in paragraphs 1 through 31 of this Complaint.

5 33. The PLAN provides for Accelerated Vesting of Options, Extended Exercisability of
6 Options and Continued Medical Benefits in the event of a PLAN participant's "covered
7 termination". Plaintiff experienced a 'covered termination' under the terms of the PLAN and was
8 thereby entitled to certain PLAN benefits.

9 34. ERISA § 502(a) (1) (B) (29 U.S.C. § 1132 (a) (1) (B)), permits a participant in a
10 PLAN to bring a civil action to recover benefits due to her under the terms of a PLAN, to enforce his
11 rights under the terms of a PLAN, and/or clarify his rights to future benefits under the terms of a
12 PLAN.

13 35. By, *inter alia*, failing to provide Plaintiff with the PLAN provided Accelerated
14 Vesting of Options, Extended Exercisability of Options and Continued Medical Benefits, despite his
15 having experienced a “covered termination”; committing wholesale and flagrant violations of the
16 procedural requirements of ERISA; having a non-designated individual act as PLAN Administrator;
17 having a purported PLAN Administrator make determinations as to Plaintiff’s entitlement to benefits
18 despite a clear bias and conflict of interest on the part of the purported PLAN Administrator; acting
19 in utter disregard of the underlying purpose of the PLAN; relying on a standard of proof not
20 articulated in the PLAN’s provisions; materially breaching the provisions of the PLAN; refusing to
21 provide Plaintiff with documentation which substantiated its decision to deny benefits; making a
22 decision that was not supported by substantial evidence; making a decision that was in bad faith; and
23 failing to produce documents to which Plaintiff was entitled pursuant to ERISA and applicable
24 Department of Labor Regulations, Defendants have violated, and continue to violate, the terms of the
25 PLAN and Plaintiff’s rights thereunder.

26 **WHEREFOR**, Plaintiff prays that the Court enter judgment against the Defendants, and each
27 of them, as is hereinafter set forth.

28 //

SECOND CLAIM FOR RELIEF

(For Equitable Relief Under ERISA §502(a) (3))

3 36. Plaintiff incorporates as though set forth in full the allegations contained in
4 paragraphs 1 through 35 of this complaint.

5 37. ERISA § 502(a) (3) (29 U.S.C. § 1132 (a) (3)), permits a participant in a PLAN to
6 bring a civil action to obtain equitable relief to redress any act or practice which violates the terms of
7 a PLAN or ERISA, or to enforce any term(s) of the PLAN or of ERISA.

8 38. By, *inter alia*, letting a non-designated individual act as PLAN Administrator;
9 appointing a purported PLAN Administrator make determinations as to Plaintiff's entitlement to
10 benefits despite a clear bias and conflict of interest on the part of the purported PLAN Administrator;
11 committing wholesale and flagrant violations of the procedural requirements of ERISA; acting in
12 utter disregard of the underlying purpose of the PLAN; relying on a standard of proof not articulated
13 in the PLAN's provisions; materially breaching the provisions of the PLAN; refusing to provide
14 Plaintiff with documentation which substantiated its decision to deny benefits; making a decision
15 that was not supported by substantial evidence; making a decision that was in bad faith; and failing
16 to produce documents to which Plaintiff was entitled pursuant to ERISA and the applicable
17 Department of Labor Regulations, refusing to pay the benefits at issue herein, Defendants have
18 violated the terms of the PLAN and ERISA by its acts, including, but not limited to, breaching its
19 fiduciary duties under ERISA § 404 (29 U.S.C. § 1104).

20 **WHEREFOR**, Plaintiff prays that the Court enter judgment against the Defendants, and each
21 of them, as is hereinafter set forth.

THIRD CLAIM FOR RELIEF

(For Statutory Penalties Under ERISA §502(c) (1))

24 39. Plaintiff incorporates as though set forth in full the allegations contained in
25 paragraphs 1 through 38 of this complaint.

26 40. ERISA § 502(c) (1) (29 U.S.C. § 1132 (c) (1)), provides for a \$100 a day from the
27 date the Plan Administrator fails or refuses to comply with a request for information.

28 | //

1 41. On and after May 1, 2006, Plaintiff requested that both VERITY and the PLAN
 2 produce certain documents to which he was entitled pursuant to ERISA and the applicable
 3 Department of Labor Regulations. Defendants refused, and continues to refuse, to do so.

4 **WHEREFOR**, Plaintiff prays that the Court enter judgment against the Defendants
 5 and each of them, as is hereinafter set forth.

6 **PRAYER FOR RELIEF**

7 **WHEREFOR**, Plaintiff prays that the Court enter judgment against the Defendants, and each
 8 of them, as follows:

9 1. Declare that Defendants, and each of them, violated the terms of the PLAN and
 10 Plaintiff's rights thereunder by failing to provide Plaintiff with Accelerated Vesting of Options,
 11 Extended Exercisability of Options and Continued Medical Benefits;

12 2. Order Defendants to provide Plaintiff with Options, Accelerated Vesting of Options,
 13 Extended Exercisability of Options, and Continued Medical Benefits due him pursuant to the terms
 14 of the PLAN, together with prejudgment interest on each through the date judgment is entered
 15 herein; or, alternatively, to award monetary damages to Plaintiff as compensation for Defendants
 16 failure to provide Plaintiff with the benefits due him under the PLAN;

17 3. Order Defendants to pay statutory penalties of \$100 a day for their failure and refusal
 18 to comply with a request for information;

19 4. Declare that Defendants breached their fiduciary duties to Plaintiff and the PLAN and
 20 enjoin Defendants from further breaches of their fiduciary duties;

21 5. Remove VERITY as a fiduciary of the PLAN and replace VERITY with an
 22 independent fiduciary;

23 6. Award Plaintiff pre-judgment interest on benefits requested herein;

24 7. Award Plaintiff reasonable attorneys' fees and costs of suit incurred herein pursuant
 25 to ERISA § 502(g) (29 U.S.C. § 1132 (g));

26 ///

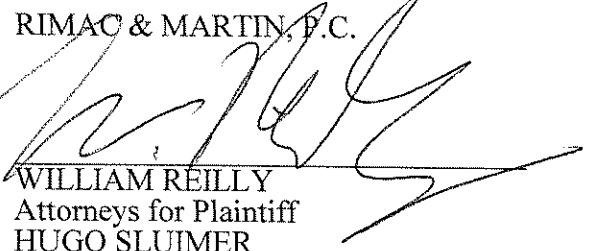
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1 8. Provide such other relief as the Court deems equitable and just.
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Respectfully submitted,

RIMAC & MARTIN, P.C.

By: 
WILLIAM REILLY
Attorneys for Plaintiff
HUGO SLUIMER

DATED: February 29, 2008

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CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

HUGO SLIJMER

(b) County of Residence of First Listed Plaintiff MONACO
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firms Name, Address, and Telephone Number)
WILLIAM REILLY, ESQ. (415) 561-8440
RIMAC & MARTIN, P.C.
1051 Divisadero Street
San Francisco, CA 94115

DEFENDANTS

VERITY, INC., a corporation;
THE VERITY INC. CHANGE IN CONTROL AND
SEVERANCE BENEFIT PLAN

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED

ATTORNEYS (If Known)

E-filing

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

PTF	DEF	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6

Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWV (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609		

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court

Transferred from another district (specify) 4 Reinstated or Reopened 5

6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Removal is based on Federal Question under ERISA, 29 U.S.C. § 1001 et seq.; and on diversity jurisdiction, 28 U.S.C. §§ 1332 and 1441(a) (amount in controversy exceeds \$75,000, exclusive of interest and costs, and is between citizens of different states).

VII. REQUESTED IN CHECK IF THIS IS A CLASS ACTION DEMAND \$ CHECK YES only if demanded in complaint:
COMPLAINT: UNDER F.R.C.P. 23 JURY DEMAND: YES NO

VIII. RELATED CASE(S) (See instructions):
IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

February 29, 2008

FOR OFFICE USE ONLY

RECEIPT# AMOUNT APPLYING IFFP

JUDGE

MAG. JUDGE

United States District Court

NORTHERN DISTRICT OF CALIFORNIA

E-filing

HUGO SLUIMER,

SUMMONS IN A CIVIL ACTION

v.

CASE NUMBER:

SI

VERITY, INC., a corporation, and
THE VERITY INC. CHANGE IN CONTROL
AND SEVERANCE BENEFIT PLAN

CV 08

1220

To: (Name and Address of Defendant)

VERITY, INC., a corporation;
THE VERITY INC. CHANGE IN CONTROL AND SEVERANCE BENEFIT PLAN

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

WILLIAM REILLY
RIMAC & MARTIN, PC
1051 Divisadero Street
San Francisco, CA 94115

tel (415) 561-8440 fax (415) 561-8430

an answer to the complaint which is herewith served upon you, within 20 days after
of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you
for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the
Clerk of this Court within a reasonable period of time after service.

RICHARD W. WIERING

FEB 29 2008

CLERK

DATE

Helen L. Almazon

(BY) DEPUTY CLERK